

**REMARKS/ARGUMENTS**

Reconsideration and allowance are respectfully requested.

Claims 1-10, 12, 14-22, 24-28 and 30-35 were rejected under 35 USC 102(e) as being anticipated by O'Byrne. Applicant respectfully traverses this rejection.

To establish that a claim is anticipated, the Examiner must point out where each and every limitation in the claim is found in a single prior art reference. *Scripps Clinic & Research Found. v. Genentec, Inc.*, 927 F.2d 1565 (Fed. Cir. 1991). Every limitation contained in the claims must be present in the reference, and if even one limitation is missing from the reference, then it does not anticipate the claim. *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565 (Fed. Cir. 1986). O'Byrne fails to satisfy this rigorous standard.

O'Byrne's stated goal is "to increase the capacity of the CDMA networks deployed at a single frequency." Col. 2, lines 45-46. To do this, O'Byrne assigns different frequencies to different cells to reduce inter-cell interference thereby increasing capacity. The Examiner contends that O'Byrne teaches using two different types of channels referring repeatedly to col. 4, lines 15-20 and lines 40-50. Different frequencies are not necessarily different types of channels. As a non-limiting example, given in the specification, one type of channel could be a shared channel and another type could be a dedicated channel. No where in the O'Byrne text referred by the Examiner is any such distinction made between the type of channel carried on different frequencies. The channels are assumed to be the same type. In any event, O'Byrne

only describes assigning frequencies and does not describe "different types of radio channels," as recited in independent claims 1, 12, 24, 30, and 36.

With regard to claim 24, O'Byrne also does not use "different frequency reuse values for different types of radio channels." O'Byrne's frequency planning scheme is implemented on a system-wide level. Adjacent cells, if possible, are assigned different frequencies (frequency reuse > 1) to reduce inter-cell interference. But there is no teaching of using different frequencies for one type of channel in one cell (or multiple cells) and the same frequency (frequency reuse = 1) for another type of channel in the same cell (or multiple cells).

Claim 1 also recites "establishing a connection with a mobile radio in a cell that includes the first type of channel and the second type of channel." Each connection in one of O'Byrne's cells uses one or more radio channels all at the same frequency assigned to that cell. Nor does O'Byrne teach "associating a first frequency reuse for the first type of channel" and "associating a second frequency reuse for the second type of channel." Claims 12 and 30 recite similar distinguishing features as claim 1.

Newly added claim 36 is directed to a mobile radio node for use in a cellular radio communications system in which a connection may be established with the mobile radio node in a cell that includes a first type of channel and a second type of channel. The mobile includes "circuitry configured to support a communication in the cell using both the first type of channel having a first frequency reuse and the second type of channel having a second different frequency reuse." No mobile terminal with capabilities to support a communication that uses the first and second type of channels

that have different corresponding frequency reuses is disclosed in O'Byrne. Nor is a mobile that support different handover capabilities as recited in claim 37 described.

As described in the specification, the present invention can achieve lower inter-cell interference and improved services for mobiles at cell borders by employing a frequency reuse greater than one for one or more channels such as the HS-DSCH channel described above. This is particularly beneficial because such a "big" downlink channel uses a significant amount of total downlink power transmitted from each cell. This reduction in interference between cells achieved allows for higher data rates at the cell border. On the other hand, other types of channels, like dedicated channels, can still employ soft handover and receive the benefits thereof using a frequency reuse of one.

Claim 13 was rejected under 35 USC 103(a) as being unpatentable over O'Byrne in view of H'mimy et al. Claims 11, 23 and 29 were rejected under 35 USC 103(a) as being unpatentable over O'Byrne in view of Mujtaba. Neither secondary reference overcomes the deficiencies noted above with respect to O'Byrne.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and an early notice to that effect is earnestly solicited.

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Respectfully submitted,

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